

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No.: EB-01-DV-388
)	
Sam Bushman)	NAL/Acct. No. 200232800003
Licensee, Station KNAK(AM))	
Delta, Utah)	FRN 0003-7785-45

MEMORANDUM OPINION AND ORDER

Adopted: December 10, 2002

Released: December 12, 2002

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* ("Order"), we rescind a seven thousand dollar (\$7,000) *Notice of Apparent Liability for Forfeiture* ("NAL")¹ issued to Sam Bushman ("Mr. Bushman") for apparently violating Section 73.49 of the Commission's Rules ("Rules").² The alleged violation involved Mr. Bushman's failure to provide an effective locked fence enclosure for the station's antenna structure.

2. On May 17, 2002, the District Director of the Commission's Denver, Colorado Field Office issued the NAL to Mr. Bushman. On August 1, 2002, the Chief, Enforcement Bureau, issued a *Forfeiture Order*³ affirming the forfeiture proposed by the NAL. The *Forfeiture Order* stated that Mr. Bushman had not filed a response, and we affirmed the forfeiture based on the information before us. Mr. Bushman filed a petition for reconsideration on September 3, 2002.

3. We have reviewed the additional facts set forth in Mr. Bushman's petition and conclude that, under principles of equity and fairness, rescission of the \$7,000 forfeiture is warranted.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 504(b) of the Act and Section 1.80(i) of the Rules, the \$7,000 forfeiture issued to Mr. Sam Bushman **IS RESCINDED**, and that pursuant to Section 1.106 of the Rules,⁴ Mr. Bushman's petition for reconsideration **IS GRANTED**.

5. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, to counsel for Mr. Sam Bushman, Barry D. Wood, Esq., Wood, Maines & Brown, Chartered, 1827 Jefferson Place, N.W., Washington, D.C. 20037, and to Mr. Sam Bushman, P.O. Box 636, 315 East 300 South, Delta, Utah, 84624.

¹ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232800003 (Enf. Bur. Denver Field Office, released May 17, 2002).

² 47 C.F.R. § 73.49.

³ *Sam Bushman*, 17 FCC Rcd 14560 (EB 2002).

⁴ 47 C.F.R. § 1.106.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau